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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/631,928	07/31/2003	Clifford Teoh	01-170 (US02)	9672
41696 7590 10/30/2007 VISTA IP LAW GROUP LLP 12930 Saratoga Avenue Suite D-2 Saratoga, CA 95070			EXAMINER NGUYEN, VI X	
			ART UNIT 3734	PAPER NUMBER
			MAIL DATE 10/30/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/631,928

Applicant(s)

TEOH ET AL.

Examiner

Victor X. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 September 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7,9,10 and 12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7,9,10 and 12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- ☐ Notice of Informal Patent Application
- ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. In response to applicant's amendment of 9/4/2007, the examiner has removed all prior Specification and 35 USC § 112 objections.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-4,7,9,10 and 12 are rejected under 35 U.S.C. 102(e) as being anticipated by Greenhalgh. (6,346,117).

Greenhalgh discloses in figures. 6-7, a system for treating an aneurysm in a vessel, including: a structure 42 is considered as a liner which has a proximal portion (not labeled, the proximal portion occurs below line 54), a distal portion (not labeled, occurs above line 54) which definitely has an interior within the proximal and distal portions, and where the distal portion is more permeable than the proximal portion (to the right side of line 54 in fig. 7, definitely has plurality of apertures or gaps which is inherently more permeable than the proximal portion which has smaller perforations; therefore, at the distal portion it is preferentially permeated embolics from the interior), and where an elongated delivery member 26 releasably connected to the liner (see col. 9, lines 34-37). As to claims 2-4 and 12, Greenhalgh discloses the structure or

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the liner is comprised of a biodegradable (see col. 3, lines 30-34, furthermore, the specification of the present application lists PGA or PLA as one of biodegradable material) and biocompatible material (see col. 3, lines 34-35), where the distal portion has perforations sized to permeate embolics, and where the liner proximal portion *is configured to to permeate blood* (see col. 9, lines 22—23) *but to inhibit permeation of embolics* (a functional limitation): Thus, a reference needs not show the structure of the recitation in order to meet the claim language but rather the reference needs only be capable of being used with such structure. As to claims 7, 9 and 10 Greenhalgh discloses that the liner distal portion is comprised of a liner 42 supported by the struts (see fig. 7), and where the liner portion comprises a shape memory polymer material (see col. 4, lines 7-15), and the shape memory polymer is actuatable between the first low profile delivery configuration where it confines the struts to a low profile configuration (see fig.5) and a relaxed, expanded configuration (see fig.6).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,3-7,9-10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chin (5,928,260) in view of Greenhalgh (6,346,117).

Chin et al disclose in figure. 14 F, a system for treating an aneurysm in a vessel, including: a liner structure 110 has a proximal portion (not labeled, to the left side of element 110 where occurs multiple perforations), a distal portion (not labeled, to the right side of

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element 110 where occurs plurality of apertures or gaps) and defining an interior within the proximal and distal portions which is able to permeate embolics introduced therein through the distal portion, where the distal portion is more permeable than the proximal portion. Chin is silent regarding an elongated delivery member releasably connected to the liner.

Greenhalgh discloses an elongated delivery member 26 releasably connected to the liner (see fig. 6). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Chin by making the device has an elongated delivery member releasably connected to the liner as taught by Greenhalgh to lead to the catheter is withdrawn from the blood vessel, because one of ordinary skill in the art would have been able to carry out such a substitution, and the results were reasonably predictable. As to claims 3-4 and 12, Chin et al disclose in fig. 14f, the liner distal portion has perforation sized to permeate embolics (see col. 9, lines 29-30), and where the liner proximal portion has perforation sized to permeate blood but to inhibit permeation of embolics (see col. 9, lines 27-29). As to claims 5-7, Chin discloses that the proximal portion comprises a liner portion (see fig. 14f) supported by expandable struts 112, where the distal portion is formed of the struts which is free of any covering, and where the distal portion comprised of a liner 170 supported by the struts 78. As to claims 9-10, Chin discloses that the liner portion comprises a shape memory polymer material (where the liner portion is made of weaved or braided mesh which has some form of a shaped memory polymer material such as polyurethane or nitinol, see col. 8, lines 55-62 and col. 11, lines 15-16), and the shape memory polymer is actuatable between the first low profile delivery configuration where it confines the struts to a low profile configuration (see fig. 14e) and a relaxed, expanded configuration (see fig. 14f).

Response to Amendment

4. Applicant's argument filed 9/4/2007 have been fully considered but they are not persuasive. Applicant is asked to please refer to the modified prior art rejections above where examiner address applicant's concerns regarding prior art rejection.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor X. Nguyen whose telephone number is (571) 272-4699. The examiner can normally be reached on M-F (8-4.30 P.M).


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Hayes can be reached on (571) 272-4697. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Victor X Nguyen
Examiner
Art Unit 3734



VN 
10/27/2007



MICHAEL J. HAYES
SUPERVISORY PATENT EXAMINER